



City of Seattle

Gregory J. Nickels, Mayor

Department of Planning and Development

D. M. Sugimura, Director

**CITY OF SEATTLE
ANALYSIS AND DECISION OF THE DIRECTOR
OF THE DEPARTMENT OF PLANNING AND DEVELOPMENT**

Application Number: 3009220

Applicant Name: Rick Cardoza

Address of Proposal: 1126 MLK Jr. Way S

SUMMARY OF PROPOSED ACTION

Land Use Application to allow a new minor communication utility (Verizon Wireless) consisting of nine panel antennas located within a new 63' monopole (replacing existing pole). Existing equipment cabinet to remain.

The following approval is required:

Administrative Conditional Use - to allow a minor communication utility to exceed the height limit. (Seattle Municipal Code 23.57.012B1).

SEPA – Environmental Determination

SEPA DETERMINATION: ☐ Exempt ☒ DNS ☐ MDNS ☐ EIS

☐ DNS with conditions

☐ DNS involving non-exempt grading, or demolition, or another agency with jurisdiction.

BACKGROUND DATA

Site and Vicinity Description

The existing site, at the corner of East Union Street and MLK Jr. Way, presently hosts a minor telecommunications utility within a convincing flagpole. The site is zoned Neighborhood Commercial 2, with 40-foot height limit. The height of the existing tower is 62 feet from existing grade, which is raised above the parking level of the site. The base of the tower is currently within a fenced area to the north and east of the existing site. Access to the site is

available through MLK Jr. Way. Surrounding zoning to the east and northeast is SF5000. To the northwest, it is L1.

Proposal Description

The applicant proposes to install receiving and re-broadcasting antennas within the transmission tower. The top of the highest antenna would be at 62-foot height. The tower was initially proposed to be three feet higher (65 feet), and its diameter would increase from approximately 1 foot to approximately 2.5 feet. In response to a correction request, the height was lowered from 65 feet to 63 feet, presumably just enough to structurally cover the necessary equipment. Additional equipment will be located adjacent to the tower on a concrete slab on grade.

Public Comments

Six comments were received, 5 opposing the proposal due to anticipated adverse aesthetic impacts and concerns about loss of property value. The other comment requested notification of the decision.

ANALYSIS - ADMINISTRATIVE CONDITIONAL USE

In Commercial zones, an Administrative Conditional Use shall be required for minor communication utilities and accessory communication devices, other than whip antennas, to exceed the height limit of the underlying zone, which includes the rooftop provisions of SMC 23.57.012.C.1c. Approval shall be pursuant to the following criteria of SMC Section 23.57.012.B.3

- (1) *The applicant shall use material, shape and color to minimize adverse visual impacts on the neighboring residential zone*

Due to the location and type of installation proposed, the minor communication utility will not result in substantial adverse visual impacts on the neighboring residential zone.

- (2) *The proposal shall not result in a significant change in the pedestrian or retail character of the commercial areas.*

The minor communication utility at its proposed location would not result in substantial changes in the existing character of the commercial area. The antennas and related equipment cabinets at the proposed location will not generate an additional traffic or affect transportation patterns, parking, light, glare, noise and odor in the area. The antennas and associated cabinets will not be detrimental to the retail character of this commercial area.

- (3) *The applicant shall demonstrate that compliance with the height limit is not feasible and that the proposed height will deviate to the least practicable extent from this standard.*

The height of the tower, the only visible construction, would be approximately 63, 1 foot higher than the existing construction. The height limit in this Neighborhood Commercial 2 zone is 40 feet. The need for the installation to exceed the height limit is necessary at this location due to the need to locate the antennas at an elevation which will communicate with the neighboring facilities which are part of the overall network service area.

The long term or use-related impacts anticipated as a result of approval of this proposal are a small increase in traffic and parking of vehicle(s) for maintenance of the utility (expected to be once a month) which is minor in scope. The EMR associated with this project has received approval under SMC 25.10.300 (EMR radiation standards). The Department's experience with review of this type of installation is that the EMR emissions constitute small fractions of that permitted under both Federal and State standards of SMC 25.10.300 and therefore, pose no threat to public health. Additionally, the Federal Communication Commission (FCC) has pre-empted state and local governments from regulating personal wireless service facilities on the basis of environmental effects of radio frequency emissions.

The Land Use Code requires that warning signs be posted in the vicinity of the accessory communication devices and the applicant has indicated their intent to do so for the subject minor communication utility. This is to ensure that people who wear medical devices, such as pacemakers; are aware of the EMR emissions. No radio and TV interference is anticipated because the wave length of the subject EMR is different.

DECISION – ADMINISTRATIVE CONDITIONAL USE

The proposed Administrative Conditional use to allow a minor communication utility to exceed the height limit of the zone is **GRANTED**.

CONDITIONS – ADMINISTRATIVE CONDITIONAL USE

None.

SEPA ANALYSIS

The initial disclosure of the potential impacts from this project was made in the environmental checklist submitted by the applicant. The information in the checklist and the experience of the lead agency with review of similar projects form the basis for this analysis and decision.

The SEPA Overview Policy (SMC 25.05.554D) clarifies the relationship between codes, policies, and environmental review. Specific policies for each element of the environment, certain neighborhood plans, and other policies explicitly referenced may serve as the basis for exercising substantive SEPA authority.

The Overview Policy states, in part: "Where City regulations have been adopted to address an environmental impact, it shall be presumed that such regulations are adequate to achieve sufficient mitigation," subject to some limitations. Under such limitations/circumstances (SMC 25.05.665 D1-7) mitigation can be considered. Thus, a more detailed discussion of some of the impacts is appropriate.

Short-term Impacts

The following temporary construction-related impacts are expected: 1) decreased air quality due to the increase dust and other suspended particulates from building activities; 2) increased noise and vibration from construction operations and equipment; 3) increased traffic and parking

demand from construction personnel; 4) blockage of streets by construction vehicles/activities; 5) conflict with normal pedestrian movement adjacent to the site; and 6) consumption of renewable and non-renewable resources. Although not significant, the impacts are adverse and certain mitigation measures are appropriate as specified below.

City codes and/or ordinances apply to the proposal and will provide mitigation for some of the identified impacts. Specifically, these are: 1) Street Use Ordinance (watering streets to suppress dust, obstruction of the pedestrian right-of-way during construction, construction along the street right-of-way, and sidewalk repair); and 2) Building Code (construction measures in general). Compliance with these applicable codes and ordinances will be adequate to achieve sufficient mitigation and further mitigation by imposing specific conditions is not necessary for these impacts. The other short-term impacts not noted here as mitigated by codes, ordinances or conditions (e.g., increased traffic during construction, additional parking demand generated by construction personnel and equipment, increased use of energy and natural resources) are not sufficiently adverse to warrant further mitigation or discussion.

Greenhouse gas

The greenhouse gas worksheet provided by the applicant shows that there will be virtually no greenhouse gas emissions associated with the installation of the minor telecommunications facility.

Long-term Impacts

Long-term or use-related impacts are also anticipated, as a result of approval of this proposal including: increased traffic in the area and increased demand for parking due to maintenance of the facility; and increased demand for public services and utilities. These impacts are minor in scope and do not warrant additional conditioning pursuant to SEPA policies.

Environmental Health

The Federal Communications Commission (FCC) has pre-empted state and local governments from regulating personal wireless service facilities on the basis of environmental effects of radio frequency emissions. As such, no mitigation measures are warranted pursuant to the SEPA Overview Policy (SMC 25.05.665).

The applicant has submitted a "Statement of Federal Communication Commission Compliance for Personal Wireless Service Facility" and an accompanying "Affidavit of Qualification and Certification" for this proposed facility giving the calculations of radiofrequency power density at roof and ground levels expected from this proposal and attesting to the qualifications of the Professional Engineer who made this assessment. This complies with the Seattle Municipal code Section 25.10.300 that contains Electromagnetic Radiation standards with which the proposal must conform. The City of Seattle, in conjunction with Seattle King County Department of Public Health, has determined that Personal Communication Systems (PCS) operate at frequencies far below the Maximum Permissible Exposure standards established by the Federal Communications Commission (FCC) and therefore, does not warrant any conditioning to mitigate for adverse impacts.

Height, Bulk and Scale

The proposed monopole would be of substantially greater bulk than the existing flagpole, but nonetheless of extremely minor bulk. It is the type of structure which, shortly after installation, is likely to be overlooked by all but the rarest passerby. Such a level of impact is too small to warrant mitigation

Greenhouse gas

The greenhouse gas worksheet provided by the applicant shows that there will be virtually no greenhouse gas emissions associated with operations of the minor telecommunications facility.

Summary

In conclusion, several effects on the environment would result from the proposed development. The conditions imposed at the end of this report are intended to mitigate specific impacts identified in the foregoing analysis, to control impacts not adequately regulated by codes or ordinances, per adopted City policies.

DECISION - SEPA

This decision was made after review by the responsible official on behalf of the lead agency of a completed environmental checklist and other information on file with the responsible department. This constitutes the Threshold Determination and form. The intent of this declaration is to satisfy the requirement of the State Environmental Policy Act (RCW 43.21.C), including the requirement to inform the public of agency decisions pursuant to SEPA.

[X] Determination of Non-Significance. This proposal has been determined to not have a significant adverse impact upon the environment. An EIS is not required under RCW 43.21C.030(2)(C).

[] Determination of Significance. This proposal has or may have a significant adverse impact upon the environment. An EIS is required under RCW 43.21C.030(2)(C).

CONDITIONS - SEPA

None.

Signature: _____ (signature on file) Date: May 25, 2009
Paul Janos, Land Use Planner

PJ:bg